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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,115	11/29/2000	Thomas Gerard Marsh	P66115US0	8760

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EXAMINER

LEZAK, ARRIENNE M

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/725,115

Applicant(s)

MARSH ET AL.

Examiner

Arrienne M. Lezak

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 6, 7, 9-25, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 4, 6, 7, 9-25, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Examiner notes that Claims 22, 27 & 28 have been amended and no claims have been added or cancelled. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 28 March 2005 as reiterated herein below.

Claim Rejections - 35 USC § 103

1. Claims 4, 6, 7, 9-25, 27 & 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over extensive consideration of the teachings of US Patent 6,149,438 to Richard.

2. Regarding Claims 4, 6, 7, 9-25, 27 & 28, Richard discloses:

A computer based training method carried out by a computer used by a student, wherein the computer is a client computer and the method comprises the steps of a server-based training system dynamically downloading training content to the client computer in response to student instructions received by the client computer, (per pending Claims 22, 27 & 28), (Abstract; Col. 2, lines 25-67; Col. 3, lines 1-27; Col. 5, lines 57-64; Col. 14, lines 23-67; and Cols. 15 & 16):

- wherein the system downloads a control program, a content data file, and a navigation frame program to the client computer, and the step of downloading content comprises the sub-steps of: the navigation frame program notifying the control program of the need for content according to a student request; and

the control program requesting the content from the system according to the content data file, (per pending Claims 27 & 28), (Abstract; Col. 2, lines 25-67; Col. 3, lines 1-27; and Col. 5, lines 57-64);

- wherein the content data file defines the location of selected content on the system, (per pending Claims 3, 27 & 28), (Col. 4, lines 48-67 and Col. 5, lines 1-29);

- wherein the content data file relates to one or more learning object, each learning object (obviously) containing a plurality of learning points, (per pending Claim 4), (Col. 6, lines 22-49);

- wherein the system also downloads a content frame program for a screen frame dedicated to output of content location of said content, and the control program requesting said content from the system; and the navigation frame program updating course progress variables as fresh content is downloaded and played, (per pending Claims 23, 27 & 28), (Col. 8, lines 15-28);

- wherein the control program is registered in the client computer as a display frame program, and its frame dimensions are such that the frame is not visible, (per pending Claims 6, 23, 27 & 28), (Col. 8, lines 28-47);

- wherein the navigation frame program establishes a frame in the client computer for navigation user interaction independently of display of current content, (per pending Claims 7, 27 & 28), wherein the navigation frame program notifies the control program of a next selected content according to a student request, (per pending Claims 27 & 28), and wherein the navigation frame

program operates independently of the content frame program, (per pending Claim 9), (Col. 8, lines 28-47);

- wherein the system downloads a progress variables frame program, said program establishes a hidden frame in the client computer, and receives updates to course progress variables as a student progresses through a course, (per pending Claims 13 & 24), (Col. 7, lines 26-30 and Col. 8, 28-47);

- wherein the navigation frame program updates said progress variables, and said updates are performed when a new learning point is activated, (per pending Claims 14 & 24), (Col. 7, lines 26-30 and Col. 8, 28-47);

- wherein the server stores information resource settings accordingly to a student registration configuration and each learning object as represented by the content data file, and the server downloads said setting for the information frame program, (per pending Claim 15); and wherein the settings/resources (URLs) are embedded in the content data file, and the control program parses the content data file to obtain the settings in response to a request from the information frame program, (per pending Claim 16), (Col. 7, lines 46-67 and Col. 8, lines 1-14);

- wherein the system downloads a start document at the start of a course, the start document defines an initial screen display and identifiers of progress variables to be updated with assistance from the progress variables frame program, (per pending Claims 17, 27 & 28); wherein the system also downloads command line parameters indicating the location in the system of the content

data file, (per pending Claims 18, 27 & 28); and wherein the system downloads the control program after downloading the command line parameters, and the control program parses the command line parameters to determine the location of the content data file, (per pending Claims 19, 27 & 28), (Col. 5, lines 57-67; Col. 6, lines 1-49; Col. 7, lines 18-25; and Col. 8, lines 15-47);

- wherein at the start of a course the control program parses the content data file to locate an identifier for a content map and causes the content map to be downloaded, and the content frame program allows student selection of desired content, (per pending Claims 20, 27 & 28), and wherein initial content is downloaded in response to a student selection using the content map, and subsequent content is selected in response to student inputs for the navigation frame program, (per pending Claims 21, 27 & 28), (Col. 8, lines 15-47); and
- wherein the additional course training content is located on the server according to a content map address contained in the content data file, said control program reading said map address to determine said location and uploading to the server a request for the additional course training content, (per pending Claims 22, 27 & 28), (Col. 6, lines 50-61 & Col. 8, lines 15-47).

3. Examiner notes that Richard does not specifically disclose the application of said patent within an Internet environment, separate from the content data file, for purposes of obtaining independent exterior (Internet - URL) sources of information, (per pending Claims 10-12, 25, 27 & 28). Examiner further notes that Applicant has incorporated the use of Java and XML, for purposes of modification convenience.

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4. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to apply the Richard computer based training system to the Internet, as the Richard system teaches the transfer of information over any necessary network, (Col. 4, lines 15-25). The Internet was a well-known network at the time of invention by Applicant, and application of the Richard training system over the Internet would have been obvious especially within a network of hundreds or thousands of computers. Further, Examiner notes that Richard discloses a maintenance functionality, (Col. 7, lines 40-67) and an authoring functionality, (Col. 8, lines 48-65), which maintenance and authoring functionalities could obviously include the incorporation of a well-known and commonly used language such as Java and XML, particularly and obviously for Internet interaction. Thus, Claims 4, 6, 7, 9-25, 27 & 28 are found to be unpatentable over extensive consideration of the teachings of Richard.

Response to Arguments

5. Applicant's arguments filed 22 August 2005, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

6. Regarding Applicant's arguments, Examiner finds that the Interview and Interview Summary dated 23 December 2004 clearly indicates the presence of those functionalities presently enumerated by Applicant. Specifically, Examiner notes that

Richards reads upon the following: partial course download, (Col. 5, lines 17-29 and Fig. 6), navigation frame program buttons, (Col. 12, lines 54-67), and content data file server/client content collaboration, (Col. 5, lines 30-45 & Col. 6, lines 5-60).

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the feature upon which applicant relies (i.e., "entire course is not downloaded as a whole") is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner notes that nowhere within Applicant's claim language is a limitation enumerating that entire course is not downloaded as a whole. Should Applicant decide to amend the claims to include such a limitation, Examiner requires proper support be shown within the specification.

8. Moreover, Applicant's claim language indicates "downloading, by a server, training content to the client computer... said training content being part of a course" wherein Richard clearly teaches retention of certain portions of a course on the servers thereby freeing disk resources on the workstations and facilitating course maintenance, (Col. 6, lines 50-54), rendering partial download of any portion of the course material within Richard obvious for the same reasons as those enumerated by Applicant, as Examiner points out that partial course download, according to Applicant, serves to "reduce the memory requirements of the client computer, and also ensures that the student receives the most current course modifications", (Applicant RCE dated 22 August 2005, p. 13). That noted, Examiner again refers to the Richard teaching of

partial download, (Col. 6, lines 50-54), and updating, (Col. 7, lines 4-25), which teachings clearly render Applicant's claimed invention unpatentable.

9. Finally, Examiner notes that Richard teaches both a student request for additional material as well as an automatic execution of additional material, (Col. 8, lines 15-28), and a diagnostic expert system capable of directing students through courses, which diagnostic expert system comprises a series of hook-points to particular addresses in the machine code implementation of the course, (Col. 8, lines 9-46), and which machine code implementation clearly reads upon a content map address used by a control program to determine content location, as noted herein above.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak
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Art Unit 2143

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